

## Commonwealth of Massachusetts

## SUFFOLK SUPERIOR COURT

## Case Summary

## Civil Docket

SUCV2009-04148

## Juliano v Boston Sand &amp; Gravel Co et al

File Date	09/25/2009	Status	Disposed: transferred to other court (dtrans)
Status Date	10/29/2009	Session	A - Civil A, 3 Pemberton Sq, Boston
Origin	1 - Complaint	Case Type	B04 - Other negligence/pers injury/pro
Track	F - Fast track	Lead Case	
		Jury Trial	Yes

## DEADLINES

Served By	Service	Answer	Rule12/19/20	Rule 15	Discovery	Rule 56	Final PTC	Judgment
			01/23/2010	01/23/2010	07/22/2010	08/21/2010		
Filed By	12/24/2009	01/23/2010	02/22/2010	02/22/2010		09/20/2010		07/17/2011
Heard By			03/24/2010	03/24/2010			01/18/2011	

## PARTIES

## Plaintiff

Patsy C Juliano  
Active 09/25/2009

## Private Counsel 641495

Richard Joyce  
Newman & Newman PC  
1 McKinley Square  
Boston, MA 02109  
Phone: 617-227-3361  
Fax: 617-723-1710  
Active 09/25/2009 Notify

## Defendant

Boston Sand & Gravel Co  
Service pending 09/25/2009

## Defendant

Lafarge North America, Inc  
Service pending 09/25/2009

## Private Counsel 564473

Mark J Hoover  
Campbell Campbell Edwards & Conroy  
1 Constitution Center  
3rd floor  
Boston, MA 02129  
Phone: 617-241-3000  
Fax: 617-241-5115  
Active 11/02/2009 Notify

## Private Counsel 544327

Brian P Voke  
Campbell Campbell Edwards & Conroy  
1 Constitution Plaza  
3rd floor  
Boston, MA 02129  
Phone: 617-241-3000  
Fax: 617-241-5115  
Active 11/02/2009 Notify

## ENTRIES

SUCV2009-04148  
Juliano v Boston Sand & Gravel Co et al

Date	Paper	Text
09/25/2009	1.0	Complaint filed with request for trial by jury all issues
09/25/2009		Origin 1, Type B04, Track F.
09/29/2009	2.0	Civil action cover sheet filed (\$175,000 )
10/28/2009		Copy of Petition for Removal to US Dist Court of defendant LaFarge North America, Inc., (US Dist# 09-cv-11799)
10/29/2009		Case REMOVED this date to US District Court of Massachusetts

## EVENTS

## PROSECUTOR ATTEST AND CERTIFY FOR

Nov. 3, 2009 THAT THEFOREGOING DOCUMENT IS A FULL,  
TRUE AND CORRECT COPY OF THE  
ORIGINAL ON FILE IN MY OFFICE,  
AND IN MY LEGAL CUSTODY.MICHAEL JOSEPH DONOVAN  
CLERK / MAGISTRATE  
SUFFOLK SUPERIOR CIVIL COURT  
DEPARTMENT OF THE TRIAL COURTAsst. Clerk.  


✓

## COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT  
C.A. NO. 09-4148A

PATSY C. JULIANO, )  
Plaintiff, )  
v. )  
BOSTON SAND & GRAVEL, CO. and )  
LAFARGE NORTH AMERICA, INC., )  
Defendant. )  
\_\_\_\_\_  
)

U.S. DIST#  
09-CV-11799

RECEIVED  
CLERK OF THE  
SUPERIOR COURT  
OF MASSACHUSETTS  
BOSTON, MASSACHUSETTS  
NOV 20 2009  
11:12 AM  
2009-4148A**NOTICE OF REMOVAL**

TO: Clerk of the Superior Court  
Suffolk County  
County Courthouse, 12<sup>th</sup> Floor  
Three Pemberton Square  
Boston, MA 02108

Richard Joyce, Esq.  
Newman & Newman, P.C.  
One McKinley Square  
Boston, MA 02109

Please take notice that the defendant, Lafarge North America, Inc. ("Lafarge") with a principal place of business in Virginia, has this day filed a notice of removal pursuant to 28 U.S.C. § 1332, containing a statement of facts which entitled it to remove the case to the United States District Court for the District of Massachusetts at Boston, together with a copy of all pleadings in its possession.

LAFARGE NORTH AMERICA, INC.,

By their Attorneys,

CAMPBELL CAMPBELL EDWARDS  
& CONROY, P.C.

I HEREBY ATTEST AND CERTIFY ON

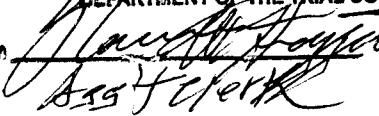
11-2-09

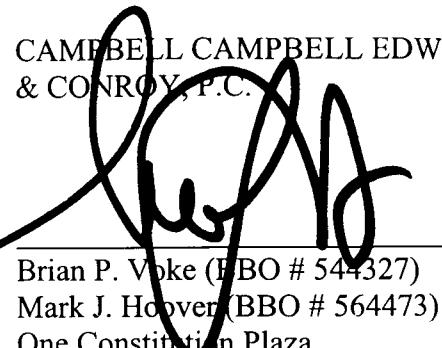
THAT THE

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MICHAEL JOSEPH DONOVAN  
CLERK / MAGISTRATE  
SUFFOLK SUPERIOR CIVIL COURT  
DEPARTMENT OF THE TRIAL COURT

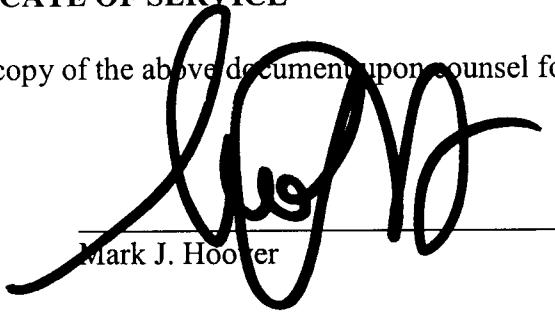
RM

  
Michael J. Donovan  
Clerk

  
Brian P. Voke (BBO # 544327)  
Mark J. Hoover (BBO # 564473)  
One Constitution Plaza  
Boston, MA 02129  
(617) 241-3000

#### CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the above document upon counsel for all parties by mail on October 26, 2009.

  
Mark J. Hoover

## COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

SUFFOLK SUPERIOR COURT  
CIVIL ACTION NO.: SUCV2009-

09-4148-A

PATSY C. JULIANO )  
Plaintiff, )  
 )  
v. )  
 )  
BOSTON SAND & GRAVEL CO. )  
and LAFARGE NORTH )  
AMERICA, INC. )  
Defendant. )  
 )

2009 SEP 25 PM 3:20  
MICHAEL J. FISHER, CLERK  
CLERK'S OFFICE

## COMPLAINT

1. The Plaintiff, Patsy C. Juliano is an adult individual residing in Peabody, Essex County, Massachusetts.
2. The Defendant, Boston Sand & Gravel Company (“Boston Sand”) is a Massachusetts corporation duly organized and existing and having a principal place of business at 100 North Washington Street, 2<sup>nd</sup> Floor, Boston, Suffolk County, Massachusetts.
3. The Defendant, LaFarge North America, Inc. (“LaFarge”) is a Maryland corporation duly organized and existing, having a principal place of business at 12950 Worldgate Drive, #500, Herndon, Virginia and registered to conduct business in the Commonwealth of Massachusetts as a foreign corporation.
4. On September 28, 2006, the Defendant, Boston Sand operated a cement plant in the Charlestown District of the City of Boston.
5. On September 28, 2006, the Defendant, LaFarge operated a cement plant in the Charlestown District of the City of Boston.

6. On September 28, 2006, the Plaintiff was operating her motor vehicle on Rutherford Avenue in the Charlestown District of the City of Boston.
7. On September 28, 2006, the Defendant, Boston Sand operated the equipment at the cement plant in such a negligent manner as to cause a silo malfunction which discharged crystalline silica into the atmosphere.
8. On September 28, 2006, the Defendant, LaFarge operated the equipment at the cement plant in such a negligent manner as to cause a silo malfunction which discharged crystalline silica into the atmosphere.
9. As a result of the discharge of crystalline silica into the atmosphere, there was a deposition of airborne silica particles onto the surface of the Plaintiff's eyes and skin. The Plaintiff was also caused to breathe the airborne silica particles.
10. As a direct and proximate result of the foregoing, the Plaintiff was caused to suffer great pain of the mind and body, forced to expend monies for medical expenses, and suffered a diminution in the quality of her life.

**WHEREFORE**, Plaintiff, Patsy C. Juliano, prays judgment against the Defendant, Boston Sand & Gravel Company and Defendant, LaFarge North America, Inc., joint and severally, for money damages and other such relief as this Court determines is fair and just.

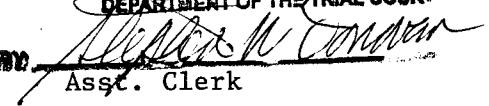
**JURY CLAIM**, Plaintiff claims the right to a trial by jury on all issues.

**HEREBY ATTEST AND CERTIFY ON**

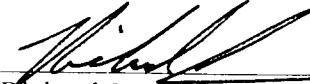
**Nov. 3, 2009 THAT THE**

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AND IN MY LEGAL CUSTODY.**

**MICHAEL JOSEPH DONOVAN  
CLERK / MAGISTRATE  
SUFFOLK SUPERIOR CIVIL COURT  
DEPARTMENT OF THE TRIAL COURT**

  
Asst. Clerk

Patsy C. Juliano,  
By Her Attorneys,

  
Richard Joyce, BBO No.: 641495  
Marshall F. Newman, BBO No.: 370560  
Newman & Newman, P.C.  
One McKinley Square  
Boston, MA 02109  
(617) 227-3361

Dated: September 18, 2009

CIVIL ACTION COVER SHEET		Trial Court of Massachusetts SUPERIOR COURT DEPARTMENT County: Suffolk	Docket Number SUCV2009-1148-A
PLAINTIFF(S) Patsy Juliano		DEFENDANT(S) Lafarge North America, Inc. and Boston Sand & Gravel Company	
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE Richard Joyce, Esquire, Newman & Newman, P.C. One McKinley Square, Boston, MA 02109 Board of Bar Overseers number:		ATTORNEY (if known)	
<u>Origin code and track designation</u>			
Place an X in one box only: <input checked="" type="checkbox"/> 1. F01 Original Complaint <input type="checkbox"/> 2. F02 Removal to Sup.Ct. c. 231, s.104 (Before trial) <input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X) <input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 &104 (After trial) (X) <input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X) <input type="checkbox"/> 6. E10 Summary Process Appeal (X)			

CODE NO.	TYPE OF ACTION (specify)	TRACK	TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)	
			IS THIS A JURY CASE?	
B04	Other negligence	(F)	(X) Yes	( ) No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

<u>TORT CLAIMS</u> (Attach additional sheets as necessary)	
A. Documented medical expenses to date:	
1. Total hospital expenses	..... (Approximately) \$ 2,700.....
2. Total Doctor expenses	..... (Approximately) \$ 12,300.....
3. Total chiropractic expenses	..... \$.....
4. Total physical therapy expenses	..... \$.....
5. Total other expenses (describe)	..... \$.....
	Subtotal \$ 15,000.....
B. Documented lost wages and compensation to date	
C. Documented property damages to date	
D. Reasonably anticipated future medical and hospital expenses	
E. Reasonably anticipated lost wages	
F. Other documented items of damages (describe)	
G. Brief description of plaintiff's injury, including nature and extent of injury (describe)	

In addition to an irritation of her eyes, nose, throat and skin, Ms. Juliano was diagnosed with restrictive lung disease. According to the AMA "Guides to the Evaluation of Permanent Impairment", 6th Edition, Ms. Juliano has a Class 2 (11-23%) whole person impairment rating based upon the results of her pulmonary function tests.

<u>CONTRACT CLAIMS</u> (Attach additional sheets as necessary)	
Provide a detailed description of claim(s):	
TOTAL \$.....	

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods." Signature of Attorney of Record Michael J. Donovan DATE: 11/25/09

A.O.S.C. 2003

HEREBY ATTEST AND CERTIFY ON

11-2-09 THAT THE

FOREGOING DOCUMENT IS A FULL,  
TRUE AND CORRECT COPY OF THE  
ORIGINAL ON FILE IN MY OFFICE,  
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MICHAEL JOSEPH DONOVAN  
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DEPARTMENT OF THE TRIAL COURT

Michael J. Donovan  
Suffolk Clerk